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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
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13-31 August 2001

CONSIDERATION OF REPORTS BY STATES PARTIES UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic, Social and Cultural Rights

PANAMA

1. The Committee on Economic, Social and Cultural Rights considered the second periodic report of Panama on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/6/Add.24) at its 36th meeting (E/C.12/2001/SR.36), held on 16 August 2001, and adopted, at its 51st meeting (E/C.12/2001/SR.51), held on 27 August 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the second periodic report of the State party, but regrets its submission after a four-year delay. The report was in general prepared in conformity with the Committee's guidelines, although insufficient information was provided on the implementation of articles 1 to 5 of the Covenant.

3. The Committee regrets the late submission of written responses to the list of issues sent in due time to the State party, as well as the absence of experts in the delegation that attended the examination of the report. These problems limited dramatically the opportunity for a constructive dialogue with the delegation.

B. Positive aspects

4. The Committee notes with satisfaction the enactment of laws promoting equality between men and women, such as the adoption of Act No. 4 of 1999 on equal opportunities for women and the adoption of Act No. 38 of 2001 that improves the provisions of Act No. 27 of 1995 on domestic violence. The Committee welcomes the setting up of the National Women's Council and other women's offices in various ministries as well as the active participation of organizations of civil society in this process of legal reform.

5. The Committee notes with satisfaction the significant reductions in levels of child mortality and malnutrition, and steady improvement in other indicators of human development.

6. The Committee notes with appreciation the establishment by Act No. 10 of 1997, Act No. 69 of 1998 and Executive Decree No. 194 of 1999 of a territorial demarcation (comarca) for the Nöbe-Buglé indigenous community, which the Committee had recommended as a result of its 1995 technical assistance mission to Panama.

7. The Committee notes with appreciation the State party's declaration of its support for the adoption of an optional protocol to the Covenant.

C. Factors and difficulties impeding the implementation of the Covenant

8. The Committee notes that economic and social underdevelopment in rural areas and inequality in access to productive resources, together with the dominant position held by the urban population in social programmes, are factors impeding government action aimed at implementing the Covenant.

D. Principal subjects of concern

9. The Committee regrets that legislation aimed at the incorporation of the Covenant directly into Panama's domestic legal system has not been adopted and that as a result the Covenant cannot be invoked before the internal authorities.

10. The Committee regrets the lack of a national plan of action for human rights prepared in accordance with the Vienna Declaration and Programme of Action.

11. Notwithstanding the important number of legal instruments and other measures adopted by the State party to ensure gender equality, the Committee is concerned about the flagrant inequality of wages for equal work and about the significantly higher rates of unemployment among women.

12. Notwithstanding the absence of legal discrimination and the rights granted to indigenous communities by the Constitution, the Committee is deeply concerned about the persisting disadvantage faced in practice by members of indigenous communities in Panama, and in particular about the marked disparities in the levels of poverty and literacy and access to water, employment, health, education and other basic social services. The Committee is also concerned that the issue of land rights of indigenous peoples has not been resolved in many cases and that

their land rights are threatened by mining and cattle ranching activities which have been undertaken with the approval of the State party and have resulted in the displacement of indigenous peoples from their traditional ancestral and agricultural lands.

13. The Committee is especially concerned that the minimum wage is not sufficient to provide for the basic needs of the worker's family, and that payment of that minimum wage is generally not respected in practice.

14. The Committee is concerned about the limited applicability of labour laws in the Colón Free Zone and the resulting limits on the protection of workers against dismissal or trade union activity. It is also concerned about high rates of unemployment in the surrounding area.

15. The Committee is concerned about the lack of a sufficient number of labour inspectors and the reported widespread use of "blank" contracts and temporary work contracts, which avoid the protection and benefits that the law requires for persons employed under longer-term contracts. It is also concerned about legislation setting excessively high requirements for the establishment of employer organizations and trade unions or their branches.

16. The Committee is concerned about the persistence of domestic violence and the inability of the State party to apply the existing legislation. It is also concerned about cases of sexual harassment and the high rate of murder suffered by women.

17. The Committee is deeply concerned about the persistent problem of child labour, especially in the rural areas, and that the minimum age for employment is under 12 years in agricultural and domestic services. The Committee is also concerned about the lack of effective measures taken to protect children against sexual violence and other forms of exploitation.

18. The Committee is concerned about the high incidence of poverty, especially in the rural areas. In this regard, the Committee is concerned about the State party's economic and social policies, which are strongly biased in favour of urban and higher income groups and which have reportedly resulted in resource misallocation and wastage and ineffective social programmes for disadvantaged and marginalized groups.

19. The Committee is concerned about the reported lack of social housing and in particular about the many different programmes and initiatives that exist in the field of housing, which are not integrated into a coherent national strategy. The Committee is also concerned about the lack of information concerning the extent to which its 1995 recommendations have been implemented, especially with regard to the need to take into account the opinions of those affected by forced evictions, in line with its general comment No. 7.

20. The Committee notes with concern that the significant progress achieved in reducing child mortality has not been accompanied by a similar reduction in the rate of maternal mortality, which remained stable between 1980 and 1997. The Committee is also concerned about respect for the rights of women with regard to reproductive and sexual health and in particular about the high rates of illegal abortion and early pregnancy.

21. The Committee considers that the growing number of HIV/AIDS cases registered during the last decade constitutes a serious health problem.

22. The Committee remains concerned about the low rates of literacy, especially among women.

23. The Committee is concerned about the inadequacy of resources allocated to address the problems of primary and secondary education.

24. The Committee regrets the absence of references in the second periodic report to action taken in response to the Committee's recommendations adopted upon the examination of the initial report of Panama.

E. Suggestions and recommendations

25. The Committee urges the State party to ensure that the provisions of the Covenant are directly applicable in the domestic legal order, so that they can be invoked before the courts.

26. The Committee strongly recommends that a national plan of action for human rights be prepared, in accordance with the Vienna Declaration and Programme of Action. The Committee requests the State party to annex a copy of the national plan of action to its third periodic report to the Committee, and to explain in its report how the plan promotes and protects economic, social and cultural rights.

27. The Committee requests the State party to provide, in its third periodic report, detailed information about any government policies, programmes and measures adopted to assist in the effective implementation of the legislation on equality between women and men.

28. The Committee reiterates its recommendation encouraging the State party to consider ratifying the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). It urges the State party to pay particular attention to improving poverty and literacy rates and access to water, employment, health, education and other basic social services for indigenous peoples. The Committee recommends that the issue of land rights of indigenous peoples be fully resolved so as to avoid their coming under threat by mining and cattle ranching activities that result in their displacement from their traditional ancestral and agricultural lands.

29. The Committee encourages the State party to take action to lower the requirements for the setting up of employer organizations or trade unions and their branches.

30. The Committee recommends that the State party take effective measures to combat the high rates of unemployment, in particular for women and in the area surrounding the Colón Free Zone. It also recommends that the limited applicability of labour laws in the Colón Free Zone be reviewed.

31. The Committee encourages the State party to act on its stated commitment to develop effective programmes and policies to combat poverty and to achieve the goal of reducing the poverty rate from 37 per cent to 30 per cent of the population by 2003. In this regard, the

Committee urges the State party to address the persistent problem of dramatic income inequality. The Committee also urges the State party to review its various initiatives designed to help reduce the high rate of poverty to ensure that they fully integrate human rights, including economic, social and cultural rights, in the light of the Committee's "Statement on poverty and the International Covenant on Economic, Social and Cultural Rights" of May 2001.

32. The Committee urges the State party to ensure that the minimum wage is increased regularly with reference to the cost of living so as to guarantee increasingly an adequate standard of living to workers and their families, and to ensure that the rules regarding the minimum wage are respected in practice.

33. With regard to Act No. 30 of 2001, the Committee strongly recommends that the State party take effective measures to disseminate and implement vigorously existing legislation on domestic violence, that police and other law enforcement officials be given better training to this end, and that information be provided in the third periodic report on the number and outcome of court cases related to domestic violence.

34. The Committee urges the State party to take all necessary measures, legislative or otherwise, to address the persistent problem of child labour, especially in agriculture and domestic services. In this regard, the Committee urges the State party to consider ratifying the ILO Worst Forms of Child Labour Convention, 1999 (No. 182). The Committee also calls upon the State party to take remedial action to protect children against sexual abuse and all forms of exploitation.

35. The Committee recommends that the State party collect comprehensive data and establish a coherent national strategy on housing, especially social housing. In this regard, the Committee urges the State party to take all appropriate measures in order to ensure the availability of affordable housing units, especially for the low-income, disadvantaged and marginalized groups

36. The Committee requests the State party to provide detailed information in its third periodic report about the number and nature of forced evictions, in accordance with general comment No. 7 of the Committee. It requests that information be provided on the implementation of recommendations formulated by the Committee as a result of its 1995 technical assistance mission.

37. The Committee calls upon the State party to take urgent measures aimed at reducing the excessively high maternal mortality rate, and to expand the availability and accessibility of reproductive and sexual health information and services, so as to encourage a reduction in the rates of illegal abortion and early pregnancy.

38. The Committee requests the State party to provide, in its third periodic report, detailed information on the number of persons living with HIV/AIDS and on the measures taken for the prevention, treatment and care of those infected, affected, or particularly vulnerable.

39. The Committee encourages the State party to refer, for its third periodic report, to its general comment No. 14[1] for assistance on how to report on its implementation of article 12 of the Covenant. The Committee requests the State party to provide detailed information in its third periodic report on the cost, affordability and availability – particularly in rural areas and for marginalized groups – of the expanded provision of outpatient and home care services that have reportedly accompanied the reduction in the number of beds available for hospital-based psychiatric treatment.

40. The Committee urges the State party to implement a comprehensive national plan of education for all, as required by paragraph 16 of the Dakar Framework for Action, taking into account the Committee's general comments Nos. 11 and 13, as well as general comment No. 1 of the Committee on the Rights of the Child on the aims of education. The Committee recommends that the State party establish literacy programmes for adults, especially for indigenous peoples and in the rural areas. The Committee requests the State party also to provide in its third periodic report detailed information about the measures taken to increase the quality of and promote equal opportunity for all in education, including in vocational education. The Committee encourages the State party to consider ratifying the UNESCO Convention against Discrimination in Education of 1960.

41. The Committee requests the State party to take measures aimed at increasing the resources available to fight illiteracy and promote primary and secondary education, as well as to provide information in its third periodic report about the allocation of resources to different levels and types of education.

42. The Committee requests the State party to disseminate its concluding observations widely among all levels of society and to inform the Committee of all steps taken to implement them. It also encourages the State party to consult with non-governmental organizations and other members of civil society in the preparation of its third periodic report.

43. Finally, the Committee requests the State party to submit its third periodic report by 30 June, 2004, and to include in the report detailed information on the steps it has undertaken to implement the recommendations contained in the present concluding observations.

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[1] Particularly to paragraphs 43 and 44 and paragraphs 57 and 58 dealing with core obligations and the setting of benchmarks.